

TITLE 5. Education

Education Audit Appeals Panel

Notice of Proposed Rulemaking

Audits of K-12 Local Education Agencies Fiscal Year 2004-05

The Education Audit Appeals Panel (EAAP) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

Public Hearing:

EAAP will hold a public hearing starting at 1:30 p.m. on August 2, 2004, in the Cedar Room at 915 L Street, Sacramento, CA 95814. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. EAAP requests that any person desiring to present statements or arguments orally notify EAAP's Regulations Coordinator of such intent. EAAP requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period closes at **5:00 p.m. on August 2, 2004**. EAAP will consider only written comments received by the Regulations Coordinator by that time (in addition to those comments received at the public hearing). Written comments for EAAP's consideration should be directed to:

Chris Pentoney, Regulations Coordinator
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, CA 95814
Fax: (916) 445-7626
e-mail: cpentoney@eaap.ca.gov

Authority and Reference:

Authority cited: Section 14502.1, Education Code.

Reference: sections 14501, 14502.1, 14503, and 41020, Education Code.

Informative Digest/Policy Statement Overview:

EAAP proposes to amend Section 19814, and adopt sections 19814.1 and 19832 through 19837 in Title 5 of the California Code of Regulations, Division 1.5, Chapter 3. The purpose of these regulations is to provide guidance to auditors in the conduct of the annual audits of local

education agencies (LEAs) that serve kindergarten or any of grades 1 through 12 (K-12) required by Education Code Section 41020. These regulations provide definitions of terms and specification of procedures to guide accountants in the conduct of the required financial and compliance audits in six areas proposed by the Controller for inclusion in the audit guide for the 2004-05 fiscal year.

Article 2, Audit Reports, includes definitions of terms in Section 19814. Subdivision (e) of Section 19814 is being amended to include reference to the state compliance requirements “that are applicable to the year audited,” and to include specification of the numbers of audit procedures proposed for inclusion in the audit guide for the 2004-05 fiscal year. Section 19814.1, Applicability of Audit Procedures by Audit Year, is being added to specify which sections of the audit guide are applicable to each audit year.

Article 3, State Compliance Requirements, lists the particular state-funded education programs that are required to be audited and sets forth procedures that direct auditors to the documents and reports and guide auditors in steps to determine whether an auditee was in compliance with the relevant statutory and regulatory requirements during the period audited. For the 2004-05 fiscal year, the areas proposed for inclusion in the audit guide are

- § 19832 State Funded Child Development: Attendance and Family Fees;
- § 19833 School Construction Funds;
- § 19834 Alternative Pension Plans;
- § 19835 Proposition 20 Lottery Funds (Cardenas Textbook Act of 2000);
- § 19836 State Lottery Funds (California State Lottery Act of 1984); and
- § 19837 California School Age Families Education (Cal-SAFE) Program.

Disclosures Regarding the Proposed Action:

- Mandate on local agencies and school districts: None
- Cost or savings to any state agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None
- Other non-discretionary cost or savings imposed upon local educational agencies: None
- Cost or savings in federal funding to the state: None
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impact on a representative private person or business: EAAP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not:
 - (1) create or eliminate jobs within California;
 - (2) create new businesses or eliminate existing businesses within California; or
 - (3) affect the expansion of businesses currently doing business within California.
- Significant affect on housing costs: EAAP has made an initial determination that the proposed regulatory action would not affect housing costs.
- Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

Consideration of Alternatives:

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative considered by EAAP or that has otherwise been identified and brought to the attention of EAAP would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

EAAP invites interested persons to present statements or arguments regarding alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

Contact Persons:

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other technical information upon which the rulemaking is based, and questions on the proposed administrative action, may be directed to Chris Pentoney, Regulations Coordinator, at (916) 445-7745 or by e-mail: cpentoney@eaap.ca.gov. The back-up contact person for general inquiries is Carolyn Pirillo at (916) 445-7745.

Availability of Initial Statement of Reasons and Text of Proposed Regulations:

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

Availability of Changed or Modified Text:

Following the public hearing and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice. If EAAP makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address stated above. The Regulations Coordinator will accept written comments on the modified regulations for 15 days after the date on which they are made available.

Availability of the Final Statement of Reasons:

Upon completion of the Final Statement of Reasons, a copy may be obtained by contacting the Regulations Coordinator at the above address.

Availability of Documents on the Internet:

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, text of the regulations in underline and strikeout, and Final Statement of Reasons will be accessible, through the Education Audit Appeals Panel website: www.eaap.ca.gov